



What are the coequal goals for the Delta?

In the Sacramento-San Joaquin Delta Reform Act of 2009 (Delta Reform Act) the Legislature stated that the basic goals of the State for the Delta are to achieve two “coequal goals:”

- providing a more reliable water supply for California, and
- protecting, restoring, and enhancing the Delta ecosystem.

The Delta Reform Act specifies that these coequal goals be achieved “in a manner that protects and enhances the unique cultural, recreational, natural resource, and agricultural values of the Delta as an evolving place.”

Who is responsible for achieving the coequal goals?

In the Delta Reform Act the Legislature also created the Delta Stewardship Council, an independent state agency, and directed it to prepare, adopt and begin implementation by Jan. 1, 2012 of an enforceable Delta Plan that furthers the coequal goals.

What does the Delta Plan include?

The Delta Plan contains both policies and recommendations to further the coequal goals. In general terms, *policies* establish rules that apply to state and local agency plans, programs, and projects that occur at least in part within the Delta and meet other specified criteria. These are called “covered actions.”[see below] *Recommendations* are just that – recommendations to the Legislature and/or other state agencies for actions only they have the authority to implement.

What is a covered action?

The Delta Reform Act specifies five criteria that must all be met for a plan, program or project to be a covered action:

- (1) It fits the definition of “project” under the California Environmental Quality Act (CEQA)
- (2) It will occur, in whole or in part, within the boundaries of the Delta or Suisun Marsh;
- (3) It will be carried out, approved, or funded by the state or a local public agency;
- (4) It is covered by one or more provisions of the Delta Plan; and
- (5) It will have a significant impact on achievement of one or both of the coequal goals or the implementation of government-sponsored flood control programs to reduce risks to people, property, and state interests in the Delta.



Are some plans, programs or projects exempt?

Yes, the Delta Reform Act specifically excludes the following from its definition of a covered action. In general terms these exclusions apply to:

- a regulatory action of a state agency;
- routine maintenance and operation of the State Water Project, the federal Central Valley Project or any other facility at least partly in the Delta that is owned and operated by a local agency;
- plans, programs or projects in the Secondary Zone of the Delta that are consistent with certain regional plans or for which a Notice of Approval or Determination was filed before the Delta Plan becomes effective; and
- plans, programs or projects in the Secondary Zone of the Delta that are consistent with certain specified standards.

How do I know if my plan, program, or project is a covered action under the Delta Plan?

Although the Delta Reform Act leaves some room for interpretation, in general, if your plan, program or project does not meet all of the five Covered Action criteria – or fits within a statutory exemption – it likely is not a covered action under the Delta Plan. However, this general guideline is not a guarantee and each plan, program, or project should be the subject of careful analysis. Staff from the Delta Stewardship Council is available, upon request, to meet with a project proponent in early consultation to advise whether the proposed action would qualify as a covered action.

Are there any circumstances in which approval of a development in Southern California would be a covered action?

The approval of a development anywhere in California other than in the Delta or Suisun Marsh is not in and of itself a covered action. If, however, the project developer acquired water from the Delta to serve the proposed new development, approval of that water acquisition could be a covered action.

Is levee maintenance in the Delta a covered action?

Routine maintenance and operation of any facility located, in whole or in part, in the Delta, that is owned or operated by a local public agency is not a covered action. Non-routine actions, such as upgrading entire levee sections or levee systems may be a covered action.

Delta Stewardship Council

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In the Delta, is remodeling an existing structure a covered action?

Probably not, because it likely would not meet the “significant impact” test for a covered action. New subdivisions in the Delta, however, likely would be unless otherwise exempt.

How are the requirements of the Delta Plan for covered actions enforced?

Under the Delta Reform Act, state and local agencies have the responsibility to self-certify that any plan, program or project that is a covered action is consistent with the Delta Plan. The Act also allows groups or individuals to appeal that certification of consistency to the Delta Stewardship Council. When the Delta Plan is finalized, DSC will prepare a discretionary check list to assist agencies with self-certification process.

What happens if a state or local agency fails to certify consistency because they believe their project to be exempt from the Delta Plan (or simply didn’t know about it), but in fact their project is a covered action?

The ultimate determination on whether a proposed project is a covered action rests with the proponent agency, subject to judicial review.

What if someone disagrees with a state or local agency’s certification of consistency?

The Act allows groups or individuals, including members of the Council, to appeal a self-certification to the Delta Stewardship Council. They have 30 days from the time the certification is submitted to the Council to appeal.